

TAB 31

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

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In Re: PHARMACEUTICAL)

INDUSTRY AVERAGE WHOLESALE) MDL No. 1456

PRICE LITIGATION) Civil Action No.

-----X 01-12257-PBS

THIS DOCUMENT RELATES TO:)

United States of America ex)

rel. Ven-a-Care of the)

Florida Keys, Inc., et al.)

v. Boehringer Ingelheim)

Corp., et al., Civil Action)

No. 07-10248-PBS)

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(CROSS-CAPTIONS APPEAR ON FOLLOWING PAGE)

VIDEOTAPED 30(b)(6) DEPOSITION OF ROXANE

LABORATORIES, INC., ROXANE LABORATORIES, INC.

n/k/a BOEHRINGER INGELHEIM ROXANE, INC.,

BOEHRINGER INGELHEIM PHARMACEUTICALS, INC., and

BOEHRINGER INGELHEIM CORPORATION by JUDY WATERER

DECEMBER 12, 2008

<p style="text-align: right;">46</p> <p>1 It's not something that we think about. We</p> <p>2 manufacture product and we sell product to</p> <p>3 customers. What they do with it subsequently is</p> <p>4 between them and whatever contracts they agree to</p> <p>5 and whatever reimbursement they agree to. It's</p> <p>6 not our -- it's not our gig.</p> <p>7 Q. I would like to come back and ask you</p> <p>8 about your statement about industry practice.</p> <p>9 A. Mm-hmm.</p> <p>10 Q. And you described, you said it's just</p> <p>11 industry practice. What products come to mind</p> <p>12 that -- well, what was -- let me pause for a</p> <p>13 second.</p> <p>14 Can you describe to me the other</p> <p>15 companies that you are aware of that follow this</p> <p>16 practice?</p> <p>17 A. I'm not sure I understand your question</p> <p>18 about describe the other companies.</p> <p>19 Q. Identify for me.</p> <p>20 A. I would have to open up the book and</p> <p>21 read you the list of every generic company that</p> <p>22 sells products in the U.S.</p>	<p style="text-align: right;">48</p> <p>1 A. When I was in the role, it would have</p> <p>2 been -- I'm trying to remember when the first</p> <p>3 product that I launched was, and it was probably</p> <p>4 '97, and the role transitioned to Leslie</p> <p>5 Paoletti. And I'm not sure, because it was a</p> <p>6 gradual transition, when the official cutoff was,</p> <p>7 but it would have been in the earlier part of</p> <p>8 this decade.</p> <p>9 Q. Okay. So what, roughly five years you</p> <p>10 had responsibility for setting AWP at time of</p> <p>11 launch?</p> <p>12 A. It's a reasonable estimate, whether it</p> <p>13 was seven or three or --</p> <p>14 Q. Okay.</p> <p>15 A. It was --</p> <p>16 Q. Approximately how many products did you</p> <p>17 have responsibility -- that responsibility for?</p> <p>18 A. In total?</p> <p>19 Q. Yes.</p> <p>20 A. At any one time, there was probably in</p> <p>21 excess of 300.</p> <p>22 Q. No. How many products did you set the</p>
<p style="text-align: right;">47</p> <p>1 Q. So it's your understanding that every</p> <p>2 generic -- every company that sells generic</p> <p>3 company products in the United States follows</p> <p>4 this practice?</p> <p>5 A. It's my understanding that if there are</p> <p>6 a few that don't that they would be exceptions.</p> <p>7 Q. And what's that understanding based on?</p> <p>8 A. When -- when I open up the Red Book and</p> <p>9 I look at AWP's out of competitive launch, I'm not</p> <p>10 familiar with having experienced seeing oh, wow,</p> <p>11 our AWP calculation is completely different than</p> <p>12 everybody else's. What comes back is yep,</p> <p>13 everybody is two cents different. Some -- some</p> <p>14 was 10 percent plus a penny, some was 10 percent</p> <p>15 less than a penny; yep, we're in the ballpark.</p> <p>16 Q. So has it been your practice over time</p> <p>17 -- let me back up.</p> <p>18 You've had responsibility for setting</p> <p>19 AWP's at the time of launch of Roxane generic</p> <p>20 products; is that correct?</p> <p>21 A. For a period of time, yes.</p> <p>22 Q. Okay. What period of time?</p>	<p style="text-align: right;">49</p> <p>1 AWP for at the time of launch?</p> <p>2 A. I would have to go through year by year</p> <p>3 and determine how many products launched each</p> <p>4 year.</p> <p>5 Q. Approximately.</p> <p>6 A. It varied by year. It would be very</p> <p>7 difficult for me to get that. I'm not prepared</p> <p>8 to go through and say this product launched.</p> <p>9 Q. I mean --</p> <p>10 A. I've been in --</p> <p>11 Q. -- four products or 40 or 400?</p> <p>12 A. Probably between one and 10 a year.</p> <p>13 Q. That works out to any -- somewhere</p> <p>14 between 20 and 30 or 40 products over a period of</p> <p>15 time?</p> <p>16 A. I don't know.</p> <p>17 MS. RIVERA: Hold on.</p> <p>18 MR. HENDERSON: Okay. All right.</p> <p>19 MS. RIVERA: Let me just put an</p> <p>20 objection on the record.</p> <p>21 MR. HENDERSON: She said she didn't</p> <p>22 know.</p>